

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 236 of 1998

in

SPECIAL CIVIL APPLICATION No 9026 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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NK PATEL

Versus

COMMISSIONER

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Appearance:

MR MUKESH R SHAH for Appellant

MR DA BAMBHANIA for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2, 3

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE A.L.DAVE

Date of decision: 03/04/98

ORAL JUDGEMENT

This appeal is directed against the order passed by the learned Single Judge dismissing Special Civil Application No. 9026 of 1997. That petition was filed by the appellant for an appropriate writ, direction or order quashing and setting aside the order transferring him from Vansada to Bharuch on December 4, 1997 (Annexure.D to the petition).

The learned counsel for the appellant stated that the appellant was appointed as peon. According to him, there were two posts; one of peon and one of helper at Vansada. Out of two, one post came to be abolished. The resultant effect was that one of the employees had to go some where else. The case of the appellant was that respondent no.3 Smt. M.L.Patel was the junior most. Ordinarily, in view of the abolition of one post, being the junior most, her services could have been terminated. But the authorities were of the opinion that if she could be transferred some where, she might not lose her job and could be accommodated elsewhere. Accordingly, by an order dt. 15th September 1997, she was transferred from Vansada to Bharuch. The contention of the appellant is that thereafter instead of respondent no.3, by the impugned order dt. December 4, 1997 the appellant came to be transferred from Vansada to Bharuch and that is how he felt aggrieved and approached this court.

The learned counsel for the appellant states that though one post is abolished and hence two persons cannot be accommodated there are other departments in which appellant could be accommodated. In the facts and circumstances of the case, in our opinion, it would be appropriate if we grant liberty to the appellant to make an application and/or representation to appropriate authority and authority is directed to consider the said application sympathetically and to pass an appropriate order. it is also appropriate to direct the authorities to dispose of the said application/ representation as expeditiously as possible preferably within two weeks from the receipt of the applicant. Letters Patent is accordingly disposed of. No costs.

Dt. 3.4.1998.

(C.K.THAKKER J.)

(A.L.DAVE J.)